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STATE OF SOUTH CAROLINA
State Budget and Control Board
OFFICE OF THE EXECUTIVE DIRECTOR

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May 14, 2004

The Honorable Bruce F. Duke
Executive Director
Public Service Commission
Of South Carolina
P.O. Drawer 11649
Columbia, South Carolina 29211

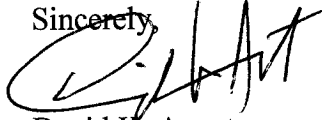
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SO. CAROLINA
COMMISSION

Re: Docket No. 2000-366-A
Proposed Order related to the Maine Yankee Skid

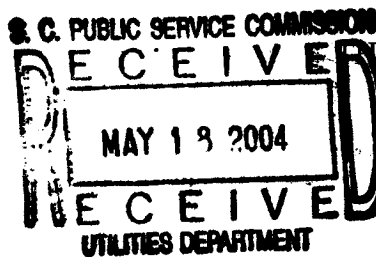
Dear Mr. Duke:

Enclosed please find the original and ten (10) copies of a proposed order submitted by the South Carolina Budget and Control Board in the above matter. The proposed order specifically addresses Chem-Nuclear Systems' request for allowable cost related to the Maine Yankee skid. The Budget and Control Board request that the Public Service Commission consider incorporating this proposed order into its final order regarding Chem-Nuclear Systems Application for Allowable Costs. The Budget and Control Board will be happy to provide the proposed order in electronic form to the Public Service Commission should it be needed.

Thank you for your assistance in this matter.

Sincerely,

David K. Avant
Office of General Counsel

Enclosure
cc: All parties of record

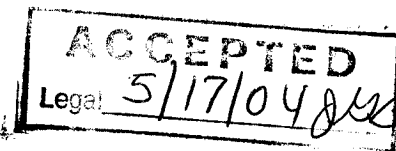


RECEIVED PUBLIC SERVICE COMMISSION OF

SOUTH CAROLINA

Docket No. 2000-366-A

5/18/04



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S.C. PUBLIC SERVICE COMMISSION

In Re: Application of Chem-Nuclear Systems,)
LLC, a Division of Duratek, In., for)
Adjustment in the Levels of Allowable)
Costs and for Identification of Allowable)
Costs)
_____)

PROPOSED ORDER
RELATED TO THE MAINE
YANKEE SKID

ISSUE

In its Application, Chem-Nuclear is requesting a \$331,342 adjustment in the area of "Direct Materials." Included in this area is a request for \$191,247 as an allowable costs for a skid used to transport and bury the Maine Yankee Reactor Pressure Vessel (RPV). Chem-Nuclear purchased the skid from its parent company, Duratek.

This Commission finds and concludes that Chem-Nuclear has failed to present evidence of any kind indicating that the price paid to Duratek for the Maine Yankee skid is a reasonable and necessary cost and therefore an allowable expense.

For the following reasons, this Commission concludes that it should not allow the adjustment of \$191,247 for the Maine Yankee skid purchased by Chem-Nuclear from Duratek.

FINDINGS AND CONCLUSIONS

The South Carolina Supreme Court has addressed the issue of a utility regulated by the PSC incurring expenses that result from dealings with an affiliate. In Hilton Head Plantation Utilities, Inc. v. Public Serv. Comm'n of South Carolina, 312 S.C. 448, 451, 441 S.E.2d 321, 323 (1994), the Court stated that "[c]harges arising out of intercompany relationships between affiliated companies should be scrutinized with care, and if there is an absence of data and

information from which the reasonableness and propriety of the services rendered and the reasonable cost of rendering such services can be ascertained by the Commission, allowance is properly refused.” The Court also upheld the PSC’s order requiring that “... the company to show that the transaction between it and the parent company, as stated above, were arms-length transactions.” Id.

In this case, Chem-Nuclear has purchased a skid from Duratek for \$191,247. Item (e) of Exhibit C to the Application indicates that “[t]he Maine Yankee RPV skid was specifically designed to meet the DOT tie-down requirements during water and land transit, and it was also designed to meet the Barnwell Disposal Facility soil bearing pressure requirements and the burial stability control requirements at the disposal site.” Item (e) goes on to indicate that the total fabrication costs of the skid was \$382,495 and that the cost “... was split between the Duratek transportation business unit and the CNS disposal site resulting in substantial savings on disposal costs.” This Commission’s determination in this matter, however, cannot be based on bare assertions of costs savings. Rather, the resolution of this question turns on two issues. First, were there additional identifiable costs for design and fabrication of the skid that were driven by the fact that the apparatus was to be used for burial? Second, did the skid have some value to its owner, Duratek, after the skid completed its initial mission of transporting the Maine Yankee RPV to Barnwell? This Commission finds that Chem-Nuclear has presented no information or data from which it can be concluded that there were additional costs associated with the skid that were the result of burial considerations as opposed to transportation considerations. This Commission also finds that Chem-Nuclear has failed to present any information or data which would indicate that the skid had value to its owner, Duratek, at the time of disposal that would justify a cost of \$191,247 for the skid.

Chem-Nuclear's Evidence Generally

The skid is briefly addressed in the prefiled testimony submitted by Chem-Nuclear in this matter. Carol Ann Hurst addressed the skid in her prefiled testimony wherein she states:

Disposal of a large component (the Maine Yankee Reactor Pressure Vessel (RPV)) required use of a uniquely designed and fabricated skid. The skid is a large metal structure used to support the RPV and distribute its weight properly. The Maine Yankee RPV skid was specifically designed to meet the DOT tie-down requirements during water and land transit and it was also designed to meet the Barnwell Disposal Facility soil bearing pressure requirements and the burial stability control requirements at the disposal site. Metal Trades, Inc., fabricated the RPV skid at a total cost of \$382,495. This total cost was split equally between the Duratek transportation business unit and the CNS disposal site which resulted in substantial savings on disposal costs. Disposal of this RPV also involved costs of \$7,557 in various other direct materials, for a total material cost of \$198,804.

This prefiled testimony provides no data or information from which this Commission can determine the reasonable and necessary cost for the skid. It contains only conclusory statements indicating substantial savings on disposal costs. There is no evidence to show why it is reasonable and necessary to equally split the cost between Chem-Nuclear and Duratek. In fact, at the hearing in this matter Ms. Hurst testified that she played no role in determining the cost of the skid and no role in determining how much of the cost would be assigned to transportation

rather than to burial. (See Tr. P. 152 ll. 9-15). Therefore, this Commission finds that Ms. Hurst's testimony has no probative value in regard to this issue.

Chem-Nuclear also prefiled the rebuttal testimony of Regan Voit. In Mr. Voit's rebuttal testimony, he states that Chem-Nuclear used an "avoided cost" approach to arrive at the 50/50 cost split. Mr. Voit indicates in his rebuttal that it was more cost effective to use a single skid for transportation and burial rather than designing and fabricating a separate skid just for burial. This testimony, however, provides no indication that the "avoided cost" approach was the correct approach to use in analyzing the appropriate cost for the skid. Mr. Voit's testimony also fails to address the relevant issues – the additional costs of fabricating the skid associated with burial and/or the value of the skid to Duratek after transportation of the RPV. In short, this rebuttal testimony provides no information or data from which this Commission can determine that the cost of \$191,247 assigned to the skid for burial was reasonable and necessary. Further, neither Mr. Voit nor any other witness for Chem-Nuclear provided additional testimony related to the "avoided cost" approach at the hearing in this matter.

At the hearing, Mr. Voit testified on direct examination that "[b]ecause more than half the skid physically remains in the disposal trench for supporting the [Maine Yankee] reactor pressure vessel, [Chem-Nuclear's] allocation of one-half of the total fabrication cost to disposal operations was actually conservative." (Tr. P.48, ll. 8-12). On redirect, Mr. Voit reiterated Chem-Nuclear's position that, since more than one-half of the skid remained with the RPV for disposal, the assignment of one-half of the cost to disposal was appropriate. (Tr. P. 76, l. 16 – P. 78, l. 24). Neither Mr. Voit's direct testimony nor his redirect testimony provide any additional justification for the amount of the cost. This Commission finds that this analysis is not probative of the relevant issues. This Commission finds persuasive the testimony of William P. Blume in

this regard. Mr. Blume strongly disagreed with the concept of basing the disposal cost of the skid on the percentage of the skid left in the disposal trench. (Tr. P. 248, l. 10 – P. 249 l. 2). As Mr. Blume correctly pointed out, 100 percent of the skid was used for transportation. (Tr. P. 248, ll. 17 – 22).

In general, neither the fact that it may have been more efficient to use one apparatus for transportation and burial nor the fact that a particular percentage of the skid remains in the disposal trench justify the arbitrary assignment of cost to the skid. Mr. Blume testified that he felt the 50/50 split in cost was arbitrary and that there was nothing found in his review of the matter that would support assigning one-half the cost to Chem-Nuclear. (Tr. P. 242, l. 18 – P. 243, l. 3). Mr. Blume found no records from Chem-Nuclear which indicated the amount of design or engineering costs for the skid associated with burial rather than transportation. (Tr. P.243, l. 24 – P. 244, l. 6). Similarly, Mr. Blume found no records which would indicate what labor and materials associated with the fabrication of the skid were for burial as opposed to transportation. (Tr. P. 244, ll. 7 – 14). In his audit of Chem-Nuclear, Mr. Blume found no indication that the skid had any market, resale, or reuse value or that it had any value at all to the transporter once the RPV had been shipped to Barnwell. (Tr. P. 244, l. 15 – P. 245, l. 2).

Specific Evidence Related to Additional Costs

Chem-Nuclear seeks to recover \$191,247 as allowable cost for the skid. This figure represents one-half the total cost of \$382,495 for the skid. The evidence presented, however, provides no basis for assigning that cost, or any other specific value, to the skid for burial purposes. The testimony submitted by Chem-Nuclear indicates that there were no determinations made concerning extra costs related to design and/or engineering of the skid which were associated with burial rather than transportation of the Maine Yankee RPV. (Tr. P. 57, l. 7 – P.

60, l. 9). In discovery, Chem-Nuclear responded “No” to the following question: “At the time of the design of the Maine Yankee skid, did Chem-Nuclear make any determinations as to extra costs related to designing and/or engineering the skid which were associated with burial rather than transportation of the Maine Yankee RPV?” It is also apparent that Chem-Nuclear made no determinations of extra costs from labor and materials for the skid associated with burial rather than transportation. Again in response to discovery, Chem-Nuclear responded “No” when asked “At the time of the fabrication or construction of the Maine Yankee skid, did Chem-Nuclear make any determinations as to extra costs related to additional materials or labor costs related to the skid which were associated with burial rather than transportation of the Maine Yankee RPV?” In fact, Mr. Voit was unable to tell this Commission at the hearing that any additional costs were related to making the skid suitable for burial in addition to transportation. (Tr. P. 61, ll. 2 – 12). This testimony is corroborated by Chem-Nuclear’s response to discovery wherein it is stated that:

Had the destination been a vacant lot there would be no difference in the design of the skid for purposes of meeting DOT requirements. So there would be no change in price for the transportation skid design. In addition, even in a vacant lot, an assessment of the ground characteristics would have to be evaluated to ensure that the package would not have a settlement problem. If the vacant lot were not in a clay environment, like the disposal site, a larger more expensive skid might be required to distribute the load to the ground. (emphasis added)

If there were additional costs associated with designing and fabricating the skid so that it could be used for burial purposes, it would be the obligation of Chem-Nuclear to present specific evidence to this Commission related to those costs. This Chem-Nuclear has failed to do. Chem-Nuclear made no determinations of extra costs at the time the skid was fabricated, Mr. Blume was able to find no documentation during his audit to support extra costs and, when given the opportunity at the hearing in this matter, Chem-Nuclear provided no specific information or data indicating that additional costs were incurred as the result of designing and constructing the skid so that it would be suitable for burial of the RPV.

Moreover, Mr. Voit testified at the hearing that the transportation of the RPV required that the weight distribution be spread over a larger area than that required for burial. (Tr. P. 83, l. 14 – P. 85, l. 3). The evidence before this Commission indicates that nearly half of the skid was removed prior to burial of the RPV. The photographic evidence introduced indicates that there was no additional material added to the skid prior to burial. The only reasonable inference that the Commission can draw from this evidence is that no additional cost was added to the fabrication of the skid to make it suitable for burial.

Specific Evidence Related to Value

There is no evidence before this Commission which would indicate that the skid has any value to the transporter of the RPV once it has been used for that purpose. The testimony indicates that the skid, once used for transportation, had no value to Duratek. (Tr. P. 55, ll. 23-25). The testimony indicates that the skid had no reuse value to Duratek or any other transporter once it was used to transport the Maine Yankee RPV to Barnwell. (Tr. P. 61, ll. 13-21). The evidence also indicates that the "... skid had no re-sale value beyond its value as scrap metal (see

Chem-Nuclear's Responses to Discovery) and that the scrap value was minimal or "inconsequential." (Tr. P. 56, ll. 8-10).

This Commission finds that Chem-Nuclear has provided no information or data which indicates that the cost of \$191,247 is reasonable and necessary for the skid when it had no market value, no resale value, no reuse value, inconsequential scrap value and no value at all to the owner, Duratek.

CONCLUSION

Based on the foregoing, this Commission finds and concludes that the adjustment of \$191,247 for the Maine Yankee skid purchased by Chem-Nuclear from Duratek is not allowed.

BY ORDER OF THE COMMISSION.

Mignon L. Clyburn, Chairman